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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,800	01/16/2004	Joel L. Johnson	ITW-14389	8275
44702 7590 01/24/2007 OSTRAGER CHONG FLAHERTY & BROITMAN PC 250 PARK AVENUE, SUITE 825 NEW YORK, NY 10177			EXAMINER TAWFIK, SAMEH	
			ART UNIT 3721	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/24/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/759,800

Applicant(s)

JOHNSON, JOEL L.

Examiner

Sameh H. Tawfik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-20 and 29-32 is/are pending in the application.
- 4a) Of the above claim(s) 29-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Newly submitted claims 29-32 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the new added claims are sub-combination of the originally examined claims, as the combination does not require to have the step of interlocking first and second zipper profiles before the step of supporting the first and second zipper profiles to a web.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 29-32 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 13-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pierre et al. (U.S. Patent No. 5,121,997).

Pierre discloses a method of manufacture comprising the following steps: (a) providing a zipper comprising interlocked first and second zipper strips (Figs. 2 and 3; via 32 and 34); (b) folding a length of a web along a fold line (Fig. 6); (c) joining a portion of a length of a first flange of said first zipper strip to a first portion of said length of said web (Fig. 5); (d) joining a

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portion of a length of a second flange of said second zipper strip to a second portion of said length of said web (Figs. 4 and 5), said first and second portions of said length of said web being on opposite sides of said fold line (Figs. 4 and 5); (e) cutting said joined lengths of said web and said zipper along first and second lines generally perpendicular to a lengthwise direction of the web to form an individual shrouded zipper assembly that includes (Figs. 14 and 15; via severing station 94 cutting perpendicularly to a lengthwise direction of the web), (f) joining a third portion of said length of said web to a first portion of a pre-made bag that partly defines a mouth (Fig. 11-13); and (g) joining a fourth portion of said length of said web to a second portion of said pre-made bag that partly defines said mouth (Figs. 11-13).

Pierre does not disclose a slider to be mounted in the zipper. However, the use of such slider to be mounted on a bag zipper is old, well known, and available in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Pierre's zipper by having a slider mounted therein, as a matter of engineering design choice, in order to make it easier and faster controlling the process of opening and closing the zipper.

Regarding claims 14 and 15: Pierre does not disclose that step (b) is performed prior to steps (c) and (d) nor step (b) being performed subsequent to step (c) and prior to step (d). However, Pierre discloses all the claimed steps of b-d, but in different order.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Pierre's steps by arranging them in different sequence, as a matter of engineering design choice.

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Regarding claim 16: forming a line of weakened tear (Fig. 2; via 31) resistance in the length of the web.

Regarding claim 17: further comprising the step of joining a pull bead (Fig. 2; via 30) to a fifth portion of the length of the web.

Regarding claim 20: the step of tack sealing the length of the web to the pre-made bag prior to steps (f) and (g), see for example (Figs. 2 and 3).

Response to Arguments

Applicant's arguments filed 12/11/2006 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the examiner agrees with the applicant that Pierre does not disclose a slider on the zipper, but as disclosed above in the action that such use of slider in zipper mechanism very old and well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Pierre's zipper by having a slider mounted therein, as a matter of engineering design choice, in order to make it easier and faster controlling the process of opening and closing the zipper.

Applicant argues in page 7 of the filed arguments that claim 13 recites a slider is inserted on a zipper, that the zipper flanges are joined to a web, and that thereafter the web with attached slider zipper assembly is attached to a pre made bag, which was not disclosed in Pierre. The examiner maintains that such order of steps were not claimed. In another wording claim 13 does not point out to any specific order steps as applicant is arguing about. The examiner believes that applicant is arguing about something was not claimed.

Applicant argues in page 8 of the arguments that Pierre does not disclose a pre-made bag to which a zipper member is attached. The examiner maintains that Pierre discloses a pre made bag to which a zipper member been attached as disclosed in Fig. 14; via two webs facing each other while zipper strip is located in between them, that could be consider as pre made bag while zipper member is attached via through sealing member.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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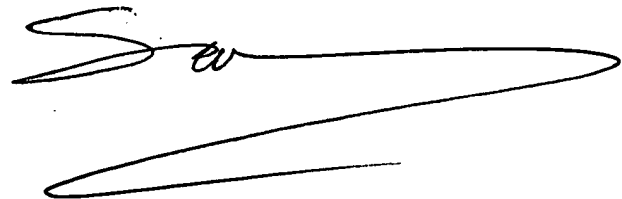
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sameh H. Tawfik whose telephone number is 571-272-4470.

The examiner can normally be reached on Tuesday - Friday from 8:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sameh H. Tawfik
Primary Examiner
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A handwritten signature in dark ink, appearing to be 'S. Tawfik', with a long horizontal flourish extending to the right.

ST.